

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 97-0165 ST

Claim For Refund - Sales And Use Tax

For The Years: 1993 Through 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales & Use Tax — Air Filtration System

Authority: 45 IAC 2.2-5-8(c)(2); Department of Revenue, State of Indiana v. Kimball International, Inc., 520 N.E.2d 454 (Ind. Ct. App. 1988).

Taxpayer protests the denial of the claim for refund for sales tax paid on taxpayer's air filtration system.

STATEMENT OF FACTS

Taxpayer is a wholesale distributor of printing supplies and a manufacturer of printing and industrial rollers. Taxpayer installed an air filtration system to remove pollutants and particulate matter from the air. Taxpayer paid sales tax on the air filtration system and filed a Claim for Refund with the Department. Additional relevant facts will be provided below as necessary.

I. Sales & Use Tax — Air Filtration System

DISCUSSION

Taxpayer's air filtration system is completely internal and does not vent pollutants or particulate matter to the outside. The auditor disallowed these items from the refund claim stating they were acquired to control the environment inside the facility and that it was not proven the air filtration system was necessary to allow taxpayer's employees to participate in the production process.

Taxpayer claims the air filtration system is safety equipment installed to allow the taxpayer's employees to participate in the production process. Taxpayer cites 45 I.A.C. 2.2-5-8(c)(2) which provides the types of equipment that are "essential and integral parts of the integrated process and are, therefore, exempt." 45 I.A.C. 2.2-5-8(c)(2)(F) lists "safety clothing or equipment which is required to allow a worker to participate in the production process without injury or to prevent contamination of the product during production."

Taxpayer submits a listing from an OSHA Compliance Manual of substances that are harmful and their tolerable levels of exposure. Taxpayer has highlighted those substances that are used or emitted in its production process.

Taxpayer argues that without the air filtration system its employees would be exposed to intolerable levels of air contaminants which would make participation in the production process impossible.

Taxpayer cites Department of Revenue, State of Indiana v. Kimball International, Inc., IN Ct of Appeals, 520 N.E.2d 454 (1988). In Kimball, the court allowed a manufacturer of finished wood products a sales tax exemption on certain items including spray booths, air make up units, and their associated parts. The court focused on the "directly used in direct production" test but also addressed the safety concerns and the need for cleaning the air to prevent the highly flammable chemicals from igniting. The taxpayer analogizes its need for clean air to the need in Kimball.

Taxpayer also cites a Letter of Findings (addressing another taxpayer) that allowed an exemption from sales tax for acoustic panels which were installed to decrease the risk of aural damage to employees by sufficiently muting the noise from machinery and bringing the noise within OSHA standards. Taxpayer argues that like the acoustic panels, the air filtration system is required to allow the employees to participate in the production process without injury.

FINDING

Taxpayer's protest is sustained. The air filtration system and all its associated parts are exempt from sales tax as they satisfy the elements of safety equipment.